

**6-MONTH PERIODIC REVIEW OF THE NATIONAL
EMERGENCY DECLARED BY EXECUTIVE ORDER 12924**

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A CONTINUATION OF THE NATIONAL EMERGENCY DECLARED BY
EXECUTIVE ORDER 12924 OF AUGUST 19, 1994, TO DEAL WITH
THE THREAT TO THE NATIONAL SECURITY, FOREIGN POLICY,
AND ECONOMY OF THE UNITED STATES CAUSED BY THE LAPSE
OF THE EXPORT ADMINISTRATION ACT OF 1979, PURSUANT TO
50 U.S.C. 1703(c)



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WASHINGTON : 2000

THE WHITE HOUSE,
Washington, December 15, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

Sincerely,

WILLIAM J. CLINTON.

**President's Periodic Report on the National Emergency Caused by
the Lapse of the Export Administration Act of 1979
For February 19, 1999, to August 19, 1999**

1. On August 19, 1994, in Executive Order No. 12924, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.) to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 et seq.) and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 730 et seq.), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 (as amended by Executive Order No. 12755 of March 12, 1991), Executive Order No. 12214 of May 2, 1980, Executive Order No. 12735 of November 16, 1990, (subsequently revoked by Executive Order No. 12938 of November 14, 1994), and Executive Order No. 12851 of June 11, 1993. As required by the National Emergencies Act (50 U.S.C. 1622(d)), I issued notices on August 15, 1995, August 14, 1996, August 13, 1997, August 13, 1998, and August 10, 1999, continuing the emergency declared in Executive Order No. 12924.

2. In 1996, I issued two Executive Orders concerning the transfer of items from the United States Munitions List to the Commerce Control List. On October 12, 1996, I issued Executive Order No. 13020, (regarding hot-section technologies for commercial aircraft engines) and on November 15, 1996, I issued Executive Order No. 13026 (regarding encryption products).

3. I issued Executive Order No. 12924 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including, but not limited to, IEEPA. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every six months. Additionally, section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)) requires that the President, within 90 days after the end of each six-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. To comply with these requirements, I have submitted combined activities and expenditures reports for the six-month periods

ending February 19, 1995, August 19, 1995, February 19, 1996, August 19, 1996, February 19, 1997, August 19, 1997, February 19, 1998, August 19, 1998, and February 19, 1999. The following report covers the six-month period from February 19, 1999 to August 19, 1999. Detailed information on export control activities is contained in the most recent Export Administration Annual Report for Fiscal Year 1998 and the January 1999 Report on Foreign Policy Export Controls, required by section 14 and section 6(f) of the Export Administration Act, respectively, which the Department of Commerce continues to submit to the Congress under a policy of conforming actions under the Executive Order to the provisions of the Export Administration Act, as appropriate.

4. Since the issuance of Executive Order No. 12924, the Department of Commerce has continued to administer and enforce the system of export controls, including anti-boycott provisions, contained in the Export Administration Regulations (EAR). In administering these controls, the Department has acted under a policy of conforming actions under Executive Order Nos. 12924, 13020, and 13026 to the provisions of the Export Administration Act, insofar as appropriate.

5. The expenses incurred by the Federal Government in the six-month period from February 19 to August 19, 1999, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration (BXA). Expenditures by the Department of Commerce for the reporting period are anticipated to be \$31,214,000, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

6. Since my last report to the Congress, there have been several significant developments in the area of export controls:

A. Multilateral Developments

Wassenaar Arrangement. The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is a multilateral regime with 33 member countries. Its purpose is to contribute to regional and international security and stability by promoting transparency and greater responsibility in international transfers of conventional arms and dual-use goods and technologies.

- The U.S. Government participates in submissions of export data made by member countries in the regime since the November 1996 implementation of the Wassenaar dual-use export control list. The Wassenaar members make dual-use data submissions on a semiannual basis in April and October.
- The Wassenaar Arrangement's Initial Elements call for Participating States to assess the overall functioning of this arrangement for the first time in 1999. The 1999 review process provides an opportunity to focus on how the arrangement is meeting its objectives. In 1999, two assessment meetings were held in February and May, with two additional meetings scheduled in the fall. The U.S. objectives for the 1999 Assessment include: (1) Expanded reporting of conventional arms; (2) Strengthening dual-use rule by adopting a denial notification policy similar to the nonproliferation regimes; and (3) Implementing controls on man-portable defense systems (MANPADS).
- In April 1999, BXA representatives attended a working group meeting to review the Arrangement's controls on conventional arms and dual-use goods and technologies. Several proposals are under review to relax controls on computers and microprocessors. Decisions to adopt or reject these proposals will occur later in the year. In addition, discussions continued on assessing the strategic relevance of items relating to computers, electronics, and telecommunications. Member countries are still studying this issue and have recently begun sharing the results of their studies among regime members.
- In July 1999, BXA representatives attended an informal meeting among 25 Wassenaar Arrangement countries to discuss enhancing controls for intangible transfers of technology and software. Further discussion on establishing effective controls for intangible transfers among all Wassenaar members will continue in the fall.

Australia Group. The Australia Group is a multilateral export control regime that seeks to stem the proliferation of chemical and biological weapons through the coordination of export licensing requirements, the sharing of information on global proliferation activities, and outreach to non-members. The 30 member countries meet annually and communicate between sessions

to review and refine the list of controlled chemicals, biological agents, and related equipment and technology.

- BXA provides technical and policy analysis for the review of items controlled by the Australia Group (AG). This review permits continued updating of the controls to optimize their nonproliferation impact and keep current with today's chemical and biological trade patterns. At the October 1998 AG Plenary, BXA participated in the Technical Experts Group's review of a number of chemical and biological equipment items and biological agents.
- BXA supports and observes the AG's no undercut policy that provides for notification to all members of export license denials for AG-controlled items. The purpose is to prevent a member from undercutting another member's denial without consultation about the reasons for the denial. The "no undercut" policy has worked well in closing the loophole for potential diverters who shop around to acquire items for proliferation purposes.
- The AG works to impede the proliferation of chemical and biological weapons through outreach to non-participating countries. BXA contributes to this effort by inviting foreign export control officials to a variety of forums to discuss national export laws and regulations, including the purpose of the AG and its control list. A number of non-AG countries -- including Bulgaria, Russia, and Ukraine -- have taken steps to adopt AG-type controls. The United States continues to encourage countries outside of the AG to observe similar export control provisions.

Nuclear Suppliers Group. The Nuclear Suppliers Group (NSG), composed of 35 member countries with the European Commission as a permanent observer, is an informal group of nations concerned with the proliferation of nuclear weapons. The NSG has established Guidelines to assist member nations in administering national nuclear export control programs. Controls are focused on certain categories of goods: nuclear material, equipment, and technology unique to the nuclear industry, and so-called nuclear dual-use items that have both nuclear and non-nuclear applications. Formal annual plenaries are held to provide the opportunity for multilateral consultations by NSG members on nuclear proliferation concerns.

- BXA continued in its efforts to establish a "level playing field" for U.S. exporters by proposing that the NSG adopt parts and components rules. Under this proposal, certain NSG Dual Use Annex entries will identify the individual parts and components of the controlled items that will also be controlled. The proposal, currently under review in the NSG, will not result in placing a significant number of new items under U.S. control; many are already subject to U.S. controls pursuant to other multilateral control regimes. What this proposal will do is enable U.S. exporters to compete equitably in the international marketplace by establishing controls in the NSG that are comparable to those in other multilateral control regimes in which the United States is a member.
- The NSG held its annual Plenary session in Florence, Italy, on May 5-6, 1999. Agreement was reached at the Plenary to continue its outreach and transparency initiatives; to include the possible addition of an Internet Web site; to enhance the usefulness of its electronic information sharing efforts among all NSG members; and to establish working groups to clarify component controls and study improvements in the effectiveness of the regime. The NSG collectively agreed on the importance of keeping pace with technological change, noting that intangible technology transfers were an area of concern deserving intensified consultation among members.
- BXA Under Secretary William Reinsch delivered the keynote address at the 2nd International NSG Transparency Seminar in New York City on April 8-9, 1999. The seminar was designed to demonstrate to non-NSG member countries the openness and transparency of the regime. States and non-governmental organizations, both within and outside the NSG, were given the opportunity to pose questions, raise topics, and exchange views on nuclear export controls.
- BXA continues to issue license denials for NSG dual-use controlled items as part of the "no-undercut" provision. Under this provision, a denial notification received from an NSG member country precludes other member countries from approving similar transactions, thereby assuring that the earlier denial is not undercut. There are procedures for member countries to consult on specific

denials if they wish to disagree with the original denial decision. In addition, BXA has been active in reporting "catch-all" denials for non-controlled items destined to end users of proliferation concern.

Missile Technology Control Regime (MTCR). The MTCR is an informal group of countries founded in 1987 by the United States and its G-7 trading partners to coordinate their national export controls for the prevention of missile proliferation. Each member, under its own laws and practices, has committed to adhere to the MTCR Guidelines for export licensing policy for items found on the MTCR Equipment and Technology Annex. The United States continued to maintain its multilateral MTCR controls as well as its unilateral Enhanced Proliferation Control Initiative controls during the reporting period.

- BXA participated in the MTCR's annual Point-of-Contact meeting in Paris on June 3-4, 1999. The focus of this year's meeting was national approaches to counter regional missile proliferation in South Asia, North Asia, and the Middle East. Bilateral meetings were also held with other key MTCR members to discuss nonproliferation and export control issues, such as "catch-all" controls and intangible technology transfers.
- On June 7-8, 1999, BXA attended the first meeting of the Missile Subgroup, one of the seven working groups under the new U.S.-Russia Export Control Working Group in Moscow. The objective of the discussions is to exchange information on procedures, policies, and processes to help make the Russian export control system more effective.
- BXA gave two presentations at the export control workshop on intangible technology transfers sponsored by the MTCR in Munich, Germany, on June 21-23, 1999. The workshop focused on the issue of industrial visits, the employment of foreign nationals, and technology transfers via electronic means, i.e., e-mail and the Internet. BXA's presentations were on developing U.S. policies and procedures for controlling intangible technology transfers, and the applicability of intangible technology controls on scientific, academic, technical, and industrial organizations.

B. Encryption Policy

During the past six months, BXA has carried out a number of activities to implement my encryption policy. These activities included license processing and participation in multilateral and interagency discussions on encryption policy, legislation activities, and public outreach. BXA continues to manage a significant workload, including review of export license applications and classification requests for license exception eligibility for certain industry sectors, as well as for mass market encryption software and hardware releases.

- BXA has worked on the implementation of the 1998 Wassenaar Agreement to encryption export controls. In December 1998, the Wassenaar members agreed to move encryption items from the Sensitive List to the Basic List and make other revisions to encryption controls. BXA, in conjunction with other agencies, continues to discuss how to implement these changes in the export regulations. BXA also participated in several Wassenaar working group meetings to discuss how to treat encryption software in the public domain and to seek consensus among the members to broaden the public domain definition for encryption.
- BXA has also participated in the Free Trade Areas of America (FTAA) Subcommittee on Electronic Commerce. This subcommittee is studying e-commerce related issues such as authentication, security, privacy, market readiness indicators, and taxation in order to assess the current e-commerce environment in the Western Hemisphere. The goal of the sub-committee is to provide recommendations to the FTAA Ministerial that will aid in increasing and broadening the benefits of e-commerce across the Western Hemisphere and ensure that common approaches are taken to facilitate cross border e-commerce activities. The U.S. delegation is active in promoting a private sector market-driven approach to e-commerce facilitation.

In 1998, the Vice President called for a review of the encryption policy within a year to determine if additional updates were required. BXA and other agencies have been working with industry groups, including the Americans for Computer Privacy (ACP), the Alliance for Network Security (ANS), and the Computer Systems Policy Project (CSPP), to study the domestic and international encryption market and understand the U.S. industry's viewpoint on encryption controls. Dialogue with

industry on the Administration's encryption policy is a key factor in determining how encryption controls need to be updated in order to better balance national security, public safety, and competitive interests of U.S. industry.

BXA held three meetings of the President's Export Council Subcommittee on Encryption (PECSENC) during the past six months. This committee fulfills the Administration's commitment to establish a formal mechanism to provide industry, users, State, and local law enforcement, and other private representatives with the opportunity to advise the U.S. Government on the future of commercial encryption policy. In June, the PECSENC published a paper containing recommendations for liberalization of encryption export controls. BXA, along with the IWG, is currently reviewing the PECSENC's suggestions.

BXA testified numerous times before Congress on encryption policy. In February, Representative Bob Goodlatte reintroduced the "Security And Freedom Through Encryption (SAFE) Act" legislation and in April, Senator John McCain introduced the "Promote Reliable On-Line Transactions to Encourage Commerce and Trade (PROTECT) Act of 1999." The Administration does not seek encryption export control legislation, nor do we believe such legislation is needed. The current regulatory structure is the best approach to an encryption policy that promotes secure electronic commerce; maintains the U.S. lead in information technology; and protects privacy, public safety, and national security interests.

During this reporting period, BXA participated in a number of events to educate exporters and the general public on the goals of the Administration's encryption export control policy and the details of the Bureau's licensing requirements. In March, BXA held a number of Advanced Encryption Seminars in which exporters with a working knowledge of encryption export controls were provided with a more in-depth study of the encryption regulations. There were also a number of encryption seminars on the East Coast, as well as seminars in Japan, Malaysia, and Singapore. Furthermore, BXA continued to conduct individual meetings with U.S. companies on a weekly basis.

C. Bilateral Cooperation/Technical Assistance

As part of the Administration's continuing effort to encourage other countries to strengthen their export control systems, the Department of Commerce and other agencies conducted a wide range of discussions with a number of foreign countries.

Hong Kong. Consistent with the provisions of the Hong Kong Policy Act of 1992, as long as Hong Kong maintains an effective and autonomous export control program the United States will continue its current export licensing policy. BXA monitors the status of Hong Kong's post-reversion export control program to ensure that it continues to be effective and autonomous from that of the People's Republic of China. In order to assist Hong Kong to maintain its export control system, the United States has agreed to share any publicly releasable list or procedural change adopted by the nonproliferation regimes (Australia Group, Nuclear Suppliers Group, Missile Technology Control Regime) and the Wassenaar Arrangement. In return, Hong Kong has agreed to implement all appropriate regime changes made known to it.

- In July 1999, a Hong Kong government delegation visited Washington to conduct bilateral consultations on export controls. U.S. agencies reviewed the current state of Hong Kong procedures, laws, regulations, and enforcement mechanisms. Hong Kong government officials have promised to stay in close contact, especially since some key trade ministry figures are scheduled to rotate into new jobs later this year.

Macau. On December 20, 1999, the Portuguese colony of Macau will revert to Chinese control under a Sino-Portuguese agreement. In January 1999, BXA led an interagency team to assess Macau's export control system, to determine if the United States could continue its present export control policy for Macau. The team found the Macau export control system to be very limited. Subsequent proposals by the State Department to further study Macau's system, in order to determine if meaningful reform could be undertaken are still under review. Since May 1999, BXA has placed Macau in a separate country category and is now treating Macau with controls identical to those placed on China.

China. Based on agreements reached in Beijing in October 1997 during the 11th annual meeting of the Joint Commission on Commerce and Trade (JCCT), U.S. and Chinese representatives agreed to conduct technical exchanges on agreed export control topics. These technical exchange seminars provide opportunities to discuss issues of concern, promote mutual understanding of the respective export control systems, and enhance future cooperation. The first of these technical exchanges occurred in

Washington in April 1998, followed by a visit by Under Secretary Reinsch to Beijing in November 1998.

- Another technical exchange seminar, scheduled for May 1999, was canceled at the last minute in the wake of the accidental bombing of the Chinese embassy in Belgrade, Serbia. A new program was arranged for early September 1999 in Washington. This session was the first of a series of working-level technical exchanges designed to allow licensing and enforcement officials to interact. Also, Chinese progress on end-use checks will be further discussed and evaluated. The U.S. Government hopes the Chinese will agree to hold working-level talks on export control issues on a quarterly basis.

India. In November 1998, BXA participated in a State Department-led delegation that visited India. The goal of the bilateral discussions was to urge India to adopt the guidelines and export control lists of the various international nonproliferation regimes. The U.S. and Indian delegations met again in May 1999 to continue these discussions.

Nonproliferation and Export Control Cooperation. During the period February 20, 1999, to August 19, 1999, BXA's Nonproliferation and Export Control Cooperation (NEC) program hosted, participated in, and/or coordinated 22 technical exchanges on export controls in conjunction with representatives from the Departments of State, Defense, and Energy, and the U.S. Customs Service. These programs sought not only to familiarize the governments of Russia, Central Europe, the Balkans, the Baltic, the Caucasus, and Central Asia with the major elements that constitute an effective international-standard export control system, but also to assist the governments in developing and strengthening their own national export control systems. These elements involve five functional areas: the Legal and Regulatory framework necessary for an effective export control system, Licensing Procedures and Control Lists, Enforcement Mechanisms, Industry-Government Relations, and System Administration and Automation Support. Programs conducted during this period are noted below, including Special Activities that related to NEC objectives. These programs have contributed to a reduction of the proliferation threat from and through the participating countries by strengthening these countries' national export control systems.

Legal and Regulatory Framework of Export Controls.

Two bilateral technical exchanges on the legal and regulatory framework for export controls were held with representatives from Russia and Moldova. BXA hosted the first forum in Washington, D.C., March 1-3, 1999, for two members of the Russian Duma with responsibility for Russia's pending export control bill, together with representatives from the Ministry of Foreign Affairs, the Federal Service for Currency and Export Controls, the Center for Export Controls, and the Russian Union of Industrialists. The purpose of the forum was to exchange information on the legal basis for export controls in the United States and Russia, and on export control legislation in the two countries. The Russian delegation briefed U.S. officials on the status and scope of Russia's pending export control legislation, provided a copy of the most recent version of the draft bill, and stated that the bill, when it entered into force, would substantially strengthen the ability of the Russian government to prosecute and punish export control violators. During the forum, the Russian delegation also met with House and Senate staff members.

The second legal technical forum met in Washington, D.C., May 24-28, 1999. Hosted by BXA, representatives from U.S. departments and agencies met with a delegation from Moldova. Designed to provide the Moldovan delegation with information needed to draft an export control law, the forum focused on the legal basis for a comprehensive and effective export control system, including essential authorities needed in the law, such as customs, transit, and defense authorities, as well as controls on dual-use exports, arms, and nuclear equipment. Moldova's export control authority was also discussed.

Licensing Procedures and Control Lists.

Seven licensing procedures and control lists technical exchanges for representatives from five countries were held during the period. The exchanges addressed the standards, practices, and procedures for export licensing, and for coordinating and managing control lists. Officials responsible for interpreting and implementing export control laws and decrees participated in the exchanges.

- The U.S.-Bulgaria National Control List Technical Workshop, held in Washington, D.C., February 22-26, 1999, constituted part of the planned cooperation between the United States and Bulgaria on export controls. The

workshop focused on the development of a dual-use control list, provided an overview of the control list process from both an international and a national perspective, and described the basic elements of the European Union (EU) numbering system for dual-use goods and technologies. Aimed at senior policymakers and mid-level export control experts engaged in control list activities, the program examined the regulatory norms of an international standard system, practices in control list work, job-skills for experts, and organizational requirements and other administrative considerations in establishing a control list function. The workshop utilized special course modules on the Wassenaar Arrangement, the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime.

- The U.S.-Georgia Technical Workshop on License Processing, hosted by BXA in Washington, D.C., March 15-19, 1999, examined the administration of a licensing system and techniques to ensure compliance with export controls by the exporting community, and addressed technical and policy analysis as part of the license review process, as well as the importance of interagency review and dispute resolutions as part of final licensing decisions. Enforcement aspects presented included pre-license, end-use, and end-user checks. Extensive practice with the Licensing Officer Instructional Simulation (LOIS) illustrated key decision points in the licensing process to the Georgian participants.
- The U.S.-Russia Licensing Procedures and Practices Workshop, hosted by BXA in Washington, D.C., March 22-26, 1999, shared advanced in-depth knowledge on the management of license processing with a Russian delegation with representatives from the Ministries of Trade and of Defense, the State Customs Committee, and the National Security Council. Aimed at the license supervisor level, the workshop focused on international standard management practices in licensing, administration, and job skills for supervisors. In utilizing advanced case studies in licensing, the program included the rationale and methodology for license administration decision-making strategies; addressed the details of critical supervisory elements, as well as the responsibilities for an effective export control system; and demonstrated the application of systems automation technology in a licensing system. Additional topics

covered included using National Control Lists and the EU Control List, the export licensing system review process and interagency review, making decisions on projects of concern, implementation of "catch-all" controls, and criminal and administrative enforcement actions.

- BXA engaged in three technical licensing and control list development exchanges with Kazakhstan in April, May and June, 1999; two in Washington, D.C., and one in Astana, Kazakhstan. These exchanges provided a sequential series of discussions that enhanced a common understanding of the implementation issues for controlling sensitive items.
- The U.S.-Romania Licensing Procedures and Practices Workshop, held at Washington, D.C., June 21-25, 1999, provided the Romanian delegation with information on the legal context and framework for the administration of an export licensing system, and the techniques to ensure compliance with export controls by the exporting community. Romanian participants from the National Agency for Control of Strategic Exports and Prohibition of Chemical Weapons engaged in discussions on how the license review process incorporates technical and policy analyses, dual-use and munitions licensing, interagency review, dispute resolutions, and final licensing decisions. Export enforcement programs and practices involving law enforcement investigations and sanctions were examined. The Romanian delegation also received demonstrations of tools that could assist Romanian licensing officers in classification and licensing, and of LOIS software, which highlights the key decision points of license processing.

Enforcement Mechanisms

- The U.S.-Ukraine Export Enforcement Technical Workshop, held in Washington, D.C., and Fort Lauderdale, Florida, April 26-30, 1999, sought to strengthen the basis for future export enforcement cooperation with Ukraine, both by familiarizing the Ukraine delegation of export enforcement officials with the U.S. Government's export enforcement programs, measures, and methods, and through a discussion of next steps for developing such enforcement cooperation. The workshop focused on the challenges and needs of effective export enforcement in halting the proliferation of "weapons of mass

destruction," discussing techniques and authorities used by U.S. Government agencies, and examining the role of interagency and international cooperation in detecting and interdicting illegal exports. Representatives from the Defense Department's Defense Threat Reduction Agency (DTRA) and from the U.S. Customs Service participated in the discussions. The workshop included a two-day visit to export enforcement field operations in Fort Lauderdale, Florida: BXA's Office of Export Enforcement field office; the U.S. Customs Service; and the Office of the U.S. Attorney, Southern District of Florida, Department of Justice.

Industry-Government Cooperation

- Commerce/BXA sponsored an Export Control Update Conference for Russian Industry ("All-Russian Conference on Export Controls"), held at Moscow, Russia, April 19-20, 1999, under the Cooperative Threat Reduction Program and more recently under the Non-proliferation, Anti-Terrorism, Demining, and Related Activities (NADR) Program. The conference was hosted by the Center on Export Controls (CEC), a Russian non-government organization based at Moscow. U.S. business representatives and government officials participated in the conference. The overall purposes of the conference were to familiarize and update Russian industrial enterprises with their export control responsibilities, namely Russian export control rules and regulations; demonstrate that industry-government cooperation on export controls and voluntary industry compliance with export control regulations are essential for effective export controls; and illustrate how U.S. and other non-Russian companies manage export controls and their in-house export control compliance programs.
- Over 100 Russian industrial enterprises from the aerospace and defense industries, and nuclear-related fields attended the conference and participated in break-out sessions. Representatives from the Russian Duma also attended the conference, as did senior officials from the Russian National Security Council, Ministries of Foreign Affairs, Trade, the Economy, Atomic Energy, the Russian Space Agency, the State Customs Committee, and other agencies. Other attendees included officials from the Japanese Center for Information on Security Trade Control. U.S. Government officials

observed genuine dialogue between Russian industry and the Russian government on a range of export control related issues. During the conference, the director of the CEC demonstrated an operational Industrial Control Program (ICP) developed by Commerce/BXA and modified by the CEC to fit the Russian regulatory environment. The ICP tool is a software-based learning/document development tool equipped with a self-paced training platform and templates that may produce a customized internal control program manual for the company. The documents include in-house administrative and screening requirements that meet universally recognized standards to ensure compliance with national export control rules and regulations.

- During the period from April 5 to July 22, 1999, a small team of BXA/NEC personnel and representatives from U.S. companies presented a series of Internal Control Program Workshops in eight Russian cities as part of the U.S.-Russian Bilateral Cooperation on Export Controls, conducted initially under the Cooperative Threat Reduction Program and more recently under the Non-proliferation, Anti-Terrorism, Demining, and Related Activities (NADR) Program. The workshops assisted the Russians to deploy operational Internal Control Programs (ICPs) at 143 Russian industrial enterprises. The ICP deployment is part of a Russian government initiative to improve industry compliance with national export control rules. Representatives of the State Customs Committee, and the Ministries of the Economy and of Defense participated in the series of workshops. The deployments took place in 11 enterprises at Samara (April 5-6, 1999), 21 enterprises at Voronezh (May 18-19, 1999), 24 enterprises at Yaroslavl (May 26-27, 1999), 18 enterprises at Orel (June 16-17, 1999), 21 enterprises at Kazan (June 24-25, 1999), 27 enterprises at Bryansk (July 8-9, 1999, five enterprises in a pilot program for sanctioned enterprises at Moscow (July 15, 1999), and 16 enterprises at Irkutsk (July 22-23, 1999).
- A delegation of U.S. officials and U.S. industry representatives headed by the Deputy Under Secretary for Export Administration, BXA, participated in the International Conference on Export Control Cooperation Between Business and Government Administration held at Warsaw, Poland, May 13-14, 1999. The conference represented the first occasion where both Polish industry

and government focused on export control cooperation. As such, the conference represented a major step forward in Poland's steady export control progress and a critical step in the strengthening of Poland's national export control system. Purposes of the conference included assisting Poland to develop an industry-government partnership in export control and non-proliferation of weapons of mass destruction, and deploying a Polish language version of the U.S.-developed Internal Control Program (ICP) for Polish munitions and dual-use industry sectors. The Polish Deputy Prime Minister attended the conference, as did some 350 Polish industry representatives.

- BXA/NEC representatives also participated in an export control workshop for Russian industry held at Irkutsk, Russia, during the week of July 19, 1999. The workshop focused on nuclear-related export controls, and featured presentations by Russia's Ministry of Atomic Energy (MINATOM) and nuclear laboratories (Institute of Power and Physics Engineering and the All-Russian Scientific and Research Institute of Experimental Physics), and the Departments of Commerce and Energy.

Program Administration and System Automation.

Although there were no technical exchanges specifically devoted to program administration as such during the period, the majority of the various nonproliferation export control activities incorporated a strong segment that addressed program administration issues of political commitment to developing and strengthening national export control systems and their institutions. In addition, the majority of the industry-government cooperation activities presented during the period contained extensive attention to the deployment of internal control programs, which facilitate the system automation of export control functions.

Special Activities

- BXA/NEC hosted its Sixth Annual Symposium for Foreign Export Control Officials from the countries of Central and Eastern Europe, the Balkans, the Baltic, Russia, the Caucasus, and Central Asia from July 13-17, 1999 in Washington, D.C. Held in conjunction with BXA's Update '99, the symposium brought together 51 delegates from 23 countries. A delegation from India participated as observers. Pakistan was invited, but

did not participate. The delegates to Symposium '99 participated in the Update '99, and in separate sessions on topics such as the roles of brokers, freight forwarders, and shippers in exporting and export control. Representatives presented status reports on their national export control systems. They also held bilateral discussions with the U.S. interagency export control community (the Departments of State, Defense, Energy, and Commerce).

D. Regulatory Actions: Published and Pending

- In accordance with the FY 1999 National Defense Authorization Act, on March 18, 1999, BXA amended the Export Administration Regulations by removing commercial communications satellites and related items from the Commerce Control List (CCL) and retransferring these items to the United States Munitions List (USML). The effective date of this retransfer of jurisdiction was March 15, 1999.
- On April 13, 1999, BXA revised the Export Administration Regulations to implement export control measures agreed to by members of the Organization of American States (OAS) and set forth in the OAS Model Regulations. The OAS Model Regulations were developed to assist OAS-member countries in implementing the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.
- OAS-member countries agreed to impose an import and export license requirement to effectively combat the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. The OAS Model Regulations affect shotguns with a barrel length 18 inches or over and related parts; buckshot shotgun shells; shotgun shells and related parts; and optical sighting devices. While a license is already required for crime control reasons, albeit subject to different licensing policies for the export of most firearm items to other OAS-member countries, BXA imposed a new license requirement for exports of these items to Canada. BXA has also imposed a new Import Certificate requirement for export of these items to all OAS member countries.
- On April 25, 1997, the United States ratified the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention

(CWC). On May 18, 1999, BXA published a rule implementing a number of important U.S. industrial reporting obligations under the CWC. The interim rule requires exporters to provide notifications and reports and established an export licensing policy for CWC chemicals. After review of public comments, BXA will publish the CWC Regulations in final form.

- On May 13, 1999, BXA published a final rule implementing a part of the January 5, 1999, Presidential initiative to enhance the United States' support of the Cuban people to promote a transition to democracy. This final rule authorizes the issuance of licenses for exports of food and certain agricultural commodities sold to individuals and independent non-governmental entities in Cuba. Aircraft flying to Cuba to deliver commodities licensed under this policy must be eligible for License Exception AVS (Aircraft and Vessels) or must be specifically licensed by BXA.
- To further the President's initiative calling for an expansion of people-to-people contacts between the United States and Cuba, BXA is accepting license applications requesting authorization to use private aircraft for temporary sojourn for travel to Cuba involving educational, cultural, journalistic, religious, or athletic exchanges.
- On May 28, 1999, six entities located in the People's Republic of China were added to the Entities List (Supplement No. 4 to Part 744). For five of these entities, a license is required for the export or reexport of all items subject to the EAR having a classification other than EAR99. For the sixth entity, a license is required for the export and reexport of all items. On March 26, 1999, three Russian entities were added to the List with all items subject to the EAR requiring a license for export or reexport. BXA will list additional entities as circumstances warrant.
- On December, 20, 1999, the Portuguese colony of Macau (Macau) will return to the sovereignty of the People's Republic of China. On May 28, 1999, BXA published a final rule adding Macau as a separate destination on the Commerce Country Chart for export licensing purposes.
- On July 8, 1999, BXA published a rule raising the composite theoretical performance level for microprocessors eligible for License Exception CIV (civil end-users) from 1,200 MTOPS (Million Theoretical Operations Per Second) to 1,900 MTOPS.

This change, a result of technological advances, allows these microprocessors to be shipped to CIVs in the former Eastern Bloc.

- On July 14, 1998, BXA implemented an embargo to Serbia and Montenegro on arms and arms-related items under its jurisdiction. On May 4, 1999, BXA imposed an additional license requirement on exports and reexports to Serbia of all items subject to the EAR. Applications are reviewed on a case-by-case basis, with a presumption of denial for applications for other than humanitarian items. This rule does not affect Montenegro. BXA currently has a rule pending which exempts exports to Kosovo from these sanctions.
- The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) controls strategic items with the objective of improving regional and international security and stability. On July 23, 1999, BXA published a final rule revising a number of national security items to conform to recent changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies. Items placed under control will be subject to both national security and anti-terrorism controls. All items removed from national security controls as a result of the Wassenaar List of Dual-Use Goods and Technologies will continue to be controlled for anti-terrorism reasons.
- Due to the rapid evolution of computer technology and the widespread commercial availability of computers with a performance of 6,500 MTOPS or less, on August 3, 1999, BXA published a rule raising the performance parameters for those computers that can be exported and reexported under License Exception Composite Theoretical Performance (CTP).
- The upper threshold of the CTP parameter for Computer Tier 2 countries was raised from 10,000 MTOPS to 20,000 MTOPS. The upper threshold for Computer Tier 3 countries was raised from 7,000 MTOPS to 12,300 MTOPS for civilian end-users and end-uses. In addition, the following countries were transferred from Computer Tier 2 to Computer Tier 1: Brazil; the Czech Republic; Hungary; and Poland.
- On July 26, 1999, President Clinton submitted a mandatory report to the Congress raising the threshold for advance notification for high performance computer (HPC) exports to Tier 3 countries from 2,000 MTOPS to 6,500 MTOPS. This

adjustment will not go into effect until 180 days after the date of the report.

- Export Clearance. BXA and the Census Bureau will jointly publish proposed rules and request public comment on clarifying export clearance, including the definition of exporter and the requirements for filing a Shipper's Export Declaration.
- Encryption. BXA will publish changes to encryption controls based on the Wassenaar Arrangement together with changes based on public comments and further development of administration policy.

E. Export License Information

During the reporting period, BXA continued to receive many requests for export licensing information through the Freedom of Information Act and through discovery requests during enforcement proceedings. Under section 12(c) of the Export Administration Act, BXA continues to withhold from public disclosure information obtained for the purpose of, consideration of, or concerning, export license applications, unless the release of such information is determined by the Under Secretary to be in the national interest, pursuant to Executive Order No. 12924's directive to carry out the provisions of the Export Administration Act, to the extent permitted by law.

F. Export Enforcement

Export Enforcement (EE) continued, through its three constituent offices, its programs of prevention of diversions, investigation/enforcement of the export control provisions of the Export Administration Regulations, and enforcement of the antiboycott provisions of the Export Administration Regulations.

Office of Enforcement Analysis.

Preventive/Compliance Activities. Office of Enforcement Analysis (OEA) prevention activities included designing a systematic plan to target and prioritize pre-license checks (PLCs) and post-shipment verifications (PSVs) conducted by representatives of U.S. diplomatic posts. The purpose of the plan is to ensure that the PLC and PSV programs, which are coordinated by BXA's Export Enforcement, reflect the full range

of U.S. export control concerns and use available resources as effectively as possible.

PLCs validate information on export license applications including the reliability of end-users. In contrast, PSVs strengthen assurances that exporters, shippers, consignees, and end-users comply with the terms of export licenses and licensing conditions that are intended to deter diversions from approved end-users and end-uses of dual-use exports. The overall objective for conducting PLCs and PSVs is to detect and prevent the illegal transfer of controlled U.S.-origin goods and technology.

Another major preventive enforcement activity of OEA is the compiling of information regarding parties of export control concern and maintaining these names on EE's watch list. All of the parties included on this watch list are screened against names listed on export license applications received by BXA. OEA analysts review all applications in detail that include a match against a party on the watch list to assess diversion risks, identify potential violations, and determine the reliability of proposed end-users of controlled U.S.-origin commodities or technical data.

NDAA Activities. As required by the National Defense Authorization Act for FY 1998 (NDAA), BXA delivered to the Congress its first annual report on high performance computer (HPC) exports. The report, delivered on January 7, 1999, identified HPC exports with processing speeds over 2,000 MTOPS to "Tier 3" countries. On July 1, 1999, the President announced a revision to export controls affecting HPCs. On August 3, 1999, BXA published regulations in the Federal Register implementing changes based on the President's announcement. The new regulations raised certain MTOP thresholds and altered the membership of country groups. OEA has responsibility for implementing the NDAA/HPC Program.

Visa Review Program. In Fiscal Year 1999, OEA continued restructuring its Visa Application Review Program to prevent unauthorized access to controlled technology or technical data by foreign nationals visiting the United States. The Office developed new criteria and thresholds for evaluating visa applications for targeting purposes. OEA narrowed its focus and concentrated on specific products most often used in weapons of mass destruction projects. OEA's evaluation and analysis of visa application cable traffic involves preventive enforcement efforts such as recommending denial of certain visas and the

referral of enforcement leads to Office of Export Enforcement field offices for possible case development. In some instances, OEA analysts uncovered possible visa fraud on the part of the foreign applicant. These findings were forwarded to the State Department's Fraud Unit for further investigation and action.

Shipper's Export Declaration Review Program. OEA systematically reviews Shipper's Export Declarations (SEDs) filed by exporters. Using a computerized index of data fields, OEA produces a list of SEDs targeted for closer review. These reviews focus particularly on licensed shipments, shipments bound for destinations of concern, and shipments of strategic commodities of proliferation concern. Through these reviews, OEA identifies SEDs that may indicate violations of the Export Administration Regulations and refers them to OEE special agents for further enforcement actions.

Investigations.

Office of Antiboycott Compliance Activities. The Office of Antiboycott Compliance continued to supply the State Department with information on boycott requests received by U.S. persons. The State Department uses this information in its discussions with boycotting countries concerning ending the Arab boycott of Israel. The Office of Antiboycott Compliance opened 6 and closed 23 investigations between February 20, 1999, and August 19, 1999.

Office of Export Enforcement. The Office of Export Enforcement opened 587 and closed 481 investigations during the reporting period.